

MAR 12 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RESHAM LAL,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

Nos. 06-73355

Agency No. A71-569-210

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 26, 2008^{**}

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Resham Lal, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

discretion the denial of a motion to reopen, *see Malty v. Ashcroft*, 381 F.3d 942, 945 (9th Cir. 2004), and we deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Lal's motion to reopen as untimely because it was filed more than six years after the BIA's February 25, 1999 order. *See* 8 C.F.R. § 1003.2(c)(2). Moreover, Lal failed to provide sufficient evidence of changed circumstances in India to establish that he now has a well-founded fear of future persecution. *See* 8 C.F.R. § 1003.2(c)(3)(ii); *see also Malty*, 381 F.3d at 945.

The BIA also did not abuse its discretion in denying Lal's motion to reopen to apply for protection under the Convention Against Torture because Lal did not meet the June 21, 1999 filing deadline, *see* 8 C.F.R. § 1208.18(b)(2), and failed to establish country conditions in India that would warrant reopening, *see id.* § 1003.2(c)(3)(ii).

We lack jurisdiction to review the BIA's decision not to exercise its sua sponte authority. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.